

In The
Supreme Court of the United States

October Term, 1970

No. 14

STATE OF NORTH CAROLINA

Appellant,

v.

HENRY C. ALFORD,

Appellee.

APPEAL FROM THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

APPELLANT'S SUPPLEMENTAL BRIEF

Joined in and Adopted by the States of Arkansas, Delaware, Illinois, Kentucky, Mississippi, and Montana, The Virgin Islands, and The National District Attorneys Association, Appearing as Amici Curiae.

ARGUMENT

PETITIONER'S GUILTY PLEA WAS CONSTITUTIONALLY VALID UNDER THE STANDARDS ENUNCIATED IN PARKER v. NORTH CAROLINA, 397 U.S. 790 (1970); BRADY v. UNITED STATES, 397 U.S. 743 (1970).

Oral argument was heard in this case on November 17, 1969. Subsequently, on April 27, 1970, this Court restored the case to the calendar for reargument. 397 U.S. 1060 (1970). One week after restoring the case to the calendar, two cases, PARKER v. NORTH CAROLINA, 397 U.S. 790 (1970) and BRADY v. UNITED STATES, 397 U.S. 743 (1970) were decided which bear heavily on the issue now before the Court. By orders of this Court, 395 U.S. 974 (1969) and 395 U.S. 976

(1969), PARKER and BRADY were argued orally immediately following the original oral argument of the present case.

The petitioner in PARKER was indicted under North Carolina law for a capital felony to which he pleaded guilty. By his plea the petitioner avoided a possible death sentence which could have resulted from a jury trial and received instead a mandatory sentence of life imprisonment.

In PARKER the petitioner contended that his guilty plea was involuntary “. . . because it was induced by a North Carolina statute providing a maximum penalty in the event of a plea of guilty lower than the penalty authorized after a verdict of guilty by a jury . . .”, 397 U.S. at 794. This contention was rejected on the authority of BRADY v. UNITED STATES, *supra*, in which this Court determined “. . . that an otherwise valid plea is not involuntary because induced by the defendant's desire to limit the possible maximum penalty to less than that authorized when there is a jury trial.” 397 U.S. at 795.

For pleas to be “otherwise valid” they “not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.” BRADY, *supra*, 397 U.S. at 748. If so made, a plea will not be rendered invalid because it was “encouraged by the fear of a possible death sentence.” BRADY, *supra*, 397 U.S. at 747.

In the case now before the Court, petitioner's plea has been subjected to judicial scrutiny and has been found voluntary and intelligent. HENRY C. ALFORD v. STATE OF NORTH CAROLINA, No. C-112-G-65 (M.D. N.C. September 3, 1965), A. pp. 12-18; HENRY C. ALFORD v. STATE OF NORTH CAROLINA, Misc. No. 220 (4 Cir. August 3, 1966) (Memorandum Decision by Chief Judge Haynsworth), A. pp 19-20. We submit that the findings below clearly indicate that petitioner's plea was “otherwise valid” under the standards set forth in BRADY, *supra*.

In BRADY the Court laid great stress on competent assistance of counsel in assuring that guilty pleas would be "otherwise valid". Counsel was relied on to serve two critical purposes: first, to act as a shield against coercive influences which would rob the plea of its voluntariness, and second, as a guide to insure as nearly as possible that the defendant knows the consequences likely to result from his decision on the plea.

In the present case petitioner's representation by court-assigned counsel has been found adequate twice in the Federal Courts and once in the State Courts. See Order of Judge Frank M. Armstrong, denying State post conviction relief, dated March 19, 1965, relevant portions of which are quoted on pages 25-26 of Appendix; HENRY C. ALFORD v. STATE OF NORTH CAROLINA, Misc. No. 220 (4 Cir. August 3, 1966), A. pp. 19-20; HENRY C. ALFORD v. STATE OF NORTH CAROLINA, No. C-98-G-67 (M.D. N.C. June 1, 1967), A. pp. 23-26.

The State Court findings adopted by the Federal District Court in HENRY C. ALFORD v. STATE OF NORTH CAROLINA, No. C-98-G-67 (M.D. N.C., June 1, 1967), make it plain that counsel did all that was possible in assuring that his client's plea was both voluntary and intelligent:

"That before the plea was entered, Fred G. Crumpler, Jr., who is an able trial lawyer, with extensive experience in the trial of criminal cases, *made a thorough investigation of the case, including the questioning of the investigating officers, all other witnesses for the State, and other persons who appeared to have some information.* That the said attorney contacted all witnesses named to him by the defendant, except a person designated as 'Jap', who could not be located; that the said attorney found that none of the witnesses could give testimony helpful to the defendant, but that all of their testimony was detrimental to the defendant. That the said attorney further found that the evidence against the defendant was overwhelming

and that the petitioner was confronted with a very serious case of murder. *That the said attorney discussed the matter with the petitioner on several occasions, and advised him of the testimony that the witnesses would give against him, and also advised him of the possible verdicts that a jury could render in the case.*" (Emphasis added) A. p. 25.

It thus appears from the State Court findings that through counsel's diligent investigation petitioner was effectively shielded from any "coercive impact of a promise of leniency." 397 U.S. at 754. And it further appears that counsel's advice as to possible verdicts and as to the strength of the State's case acted to assure that petitioner's plea was made intelligently. Just as in BRADY there is no evidence here that petitioner "did not or could not, *with the help of counsel* rationally weigh the advantages of going to trial against the advantages of pleading guilty." 397 U.S. at 750 (Emphasis added). cf. McMANN v. RICHARDSON, 397 U.S. 759 (1970).

Faced with the overwhelming evidence against him, petitioner's choice was rational. Clearly under all the circumstances of this case, petitioner's plea meets the test adopted in BRADY:

"[A] plea of guilty entered by one fully aware of the direct consequences, including the actual value of any commitments made to him by the court, prosecutor, or his own counsel, must stand unless induced by threats (or promises to discontinue improper harrassment), misrepresentation (including unfulfilled or unfulfillable promises), or perhaps by promises that are by their nature improper as having no proper relationship to the prosecutor's business (e.g. bribes)." 397 U.S. at 755 (citations omitted).

II.

There is a factual difference between the present case, on one hand, and PARKER and BRADY on the other. The peti-

tioners, PARKER and BRADY, both admitted that they had in fact committed the crimes charged before their guilty pleas were accepted. In the case now before the Court, the petitioner maintained his innocence in the trial court while continuing to restate his desire to plead guilty. It could be urged that petitioner's failure to admit his guilt removes the present case from the holding of PARKER and BRADY. Such a suggestion was in fact made by the United States Court of Appeals for the Fourth Circuit. *WILSON v. NORTH CAROLINA*, _____ F. 2d _____, n. 6 (4th Cir., No. 13,339, July 15, 1970) (*en banc*).

A fair reading of BRADY does disclose that the Court there relied significantly on petitioner's admission of guilt, and the opinion contains dicta from which it might be inferred that had BRADY maintained his innocence the holding would have been otherwise. That is not to say, however, that petitioner in the present case is entitled to relief.

In *U.S.A. v. TUCKER*, 425 F. 2d 624 (4 Cir. 1969) the Fourth Circuit was faced with a situation analogous to the one now before this Court. There the defendant in a criminal prosecution who had previously tendered a plea of guilty was later given an opportunity to plead anew. At the second proceeding he again pleaded guilty but at the same time professed his innocence. Finding that the second proceeding failed to supply a factual basis for acceptance of defendant's plea, the Court of Appeals remanded the case for a determination of whether the plea had been entered voluntarily and knowingly.

Assuming that an admission of guilt is necessary to the holding in PARKER and BRADY, it might appear that a remand for determination of voluntariness and intelligence would be appropriate in the present case. Here, however, as noted above, lower courts have already determined that petitioner's plea was entered voluntarily and knowingly. Whatever the reasons for petitioner's reluctance to admit his guilt, these judicial determinations that petitioner's plea was consti-

tutionally valid should be afforded due consideration.

Furthermore, in light of the overwhelming evidence presented against him at trial, a full transcript of which is attached as an appendix to this supplemental brief, there can be no doubt that an adequate basis in fact was established to support petitioner's plea. Surely, this Court's expectations expressed in **BRADY** that "courts will satisfy themselves that pleas of guilty are voluntarily and intelligently made by competent defendants with adequate advice of counsel . . .", 397 U.S. at 758, have been met in this case. The fact that petitioner refused to admit his guilt should not be made a point of distinction in the face of clear findings that petitioner's plea was both voluntary and intelligent.

Respectfully submitted,

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APPENDIX

NORTH CAROLINA) IN THE SUPERIOR COURT
)
 FORSYTH COUNTY) DECEMBER 2, 1963 TERM

STATE OF NORTH CAROLINA)
)
 -vs-) *TRANSCRIPT*
) *OF*
) *PROCEEDINGS*
 HENRY C. ALFORD)

APPEARANCES OF COUNSEL

FOR THE STATE: *HARVEY A. LUPTON,*
 Solicitor.

FOR THE DEFENDANT: *FRED G. CRUMPLER, JR.,*
 of the firm of White, Crumpler
 & Powell

HEARD before the Honorable Walter E. Johnston, Jr.,
 Judge Presiding over the December 2, 1963 Criminal Term
 of Forsyth Superior Court.

The defendant, Henry C. Alford, being charged with murder
 in the first degree involving the death of Nathaniel Young,
 through his attorney entered a plea of guilty to second degree
 murder.

[1]

MR. LUPTON: Your Honor, in this case Henry C.
 Alford is charged with the murder of Nathaniel Young

on or about the 22nd day of November, 1963. Henry C. Alford, what is your plea?

MR. CRUMPLER: We tender a plea of guilty to second degree murder.

THE COURT: Let the record show that when the case was called for trial the defendant, through his attorney, tendered to the State a plea of guilty to second degree murder, which plea is accepted by the State.

MR. CRUMPLER: Thank you, Your Honor.

MR. LUPTON: Your Honor, I believe, if it's satisfactory with you, I'll put the detective on the stand first.

THE COURT: All right.

E. I. WEATHERMAN, being first sworn to state the truth, the whole truth and nothing but the truth, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. LUPTON:

Q. You are E. I. Weatherman, Detective in the Police Department?

A. Yes sir, that's correct.

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Q. Now, go ahead and tell us what you learned in your investigation and tell us what each one of the witnesses told you, sir.

A. About 9:08 P.M., 11-22-63, Gilmore's Funeral Home notified the station that they had a request to pick up a person at a shooting on Claremont Avenue. As a consequence of this, Detective Pinkston went to the Kate Bitting Hospital and there learned that Nathaniel Young, male, colored, age forty, 1409 East 7½ Street was dead on arrival and that Dr. Vreeland had ruled that death was due to a

gunshot wound which had entered the lower part of the heart on the left side of the chest. We then contacted James Teams, Eliza Toney, and others, who stated that they were at the home of Nathaniel Young at 1409 East 7½ Street around 8:00 o'clock on the 22nd, and that Henry C. Alford came in the house with a white girl, Georgia Lee Holder; that Alford and Georgia Lee went to the kitchen and that they got a drink of whiskey apiece; that they hugged and kissed back there and bought maybe two drinks of liquor; that the jukebox was playing and that Georgia Lee danced with Alford and one or two other colored males, and that Alford then came back in the front room and gave Nathaniel a dollar, stating that he

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wanted to use the bedroom. James Teams stated that he was in a chair near the bedroom and that Alford called Georgia Lee and they went into the bedroom and that Alford said that that was the last dollar that he had, and that Georgia Lee stated that he would have to have more than that and that he would—that they would have to come out of the room; that they stayed there about four or five minutes after that.

Q. She was a white girl?

A. That's right. They stayed there about four or five minutes and Alford said to Georgia Lee, said, "Let's go," and Georgia Lee said, "No, I'm not going. I'm going to stay here." Alford stated, "Well, you came here with me and you're going to leave with me," and he got ahold of her and attempted to pull her out of the chair and James stood up and said, "She don't have to go with you if she don't want to, she can stay here," and that Alford stated then that she came with him and that she was going to leave with him, and that Nathaniel said that he wasn't going to have anything in his house, that she could stay there if she wanted to. Alford then grabbed the coat of

Georgia Lee and went out the door. Nathaniel and Rudolph Harris ran out the door

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after him and they returned in just a short time and stated that they were unable to catch Alford and get the coat back. They were standing around in the room, the rest of them, and in about ten or fifteen minutes there was a knock on the door and Nathaniel asked who was at the door and said somebody mumbled something that they couldn't understand and that Nathaniel opened the door and when he had it opened some short distance, some eight to twelve inches, there was a blast and Nathaniel fell to the floor. James Teams said that he ran out the door shortly but he was unable to see anyone around. We then contacted Ruby McGill, 1112 East 10½ Street, where Alford had been living, and Ruby—as a consequence of an interview with her—stated that she and Henry had been living together for some three years; that they were at this address about five months; that Henry left around dark, stating that he would be back in a few minutes; that about two and a half to three hours later he came back in and stated that he was breathing hard; appeared to have been running, and stated that, "God-damn son-of-a-bitches been running me and I'm going back and kill him." She stated that at that time he said Nathaniel Young, and that he repeated it a couple or three

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times, that he was going back and kill the son-of-a-bitch and the other fellow with him also. She stated that he got his shotgun out of the wardrobe and four shells; that she and Shirley asked him not to, told him there was no use in that, and said that he kept repeating that he was going back and that he went out the door. We talked to Betty Jean Robinson, who stated that she was on the porch of a store at 1202 10½ Street, which is a little better—about a

half a block from the home—in the direction of Nathaniel Young's home, and she stated that she and Paul Hill was standing on the porch and Henry C. Alford came by them with a gun. In her statement to us, Ruby McGill stated that after he left with the gun, that he came back in approximately thirty to thirty-five minutes and stated that—said, "Honey, I done killed that Nathaniel and I'm going to leave you with the furniture." She said, "You don't have no business killing any man," and he said, "Yes, I killed that god-damn son-of-a-bitch. I'm not going to have anyone to kill me. I went to the door and when I shot him he just turned his head around and fell on the floor."

Q. He said he shot him?

A. Then we talked with Shirley. She stated that she

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was there; that she asked him not to go down there and he told her to mind her own business. While we was attempting to pick up Alford in regard to this we went to the home of Sidney Lackey, who lives down a couple houses across the street, and we first went to his home around 11:00 o'clock and asked him if Henry had been there. He said, after waking him, said that he had come in there and told him if the officers come looking for me tell them that I haven't been here. And I talked with Sidney later and he stated that after we left he went out and found Alford and asked him why we was looking for him and he told him he shot a man. Betty Robinson, in talking with her, she stated that she went to Alford's home after we were there—and we carried Ruby McGill to the station—that she went there around 12:00 o'clock and that Henry C. Alford was there and he gave her a coat—and the coat has been identified as the one that Georgia Lee Holder had—and that they went out and he bought her two drinks of whiskey which he paid a dollar and a half for; that he asked her for her address and her full name;

stated that he had shot a man and that he would be gone a long time. We arrested Henry C. Alford about 1:00 o'clock at 11th and Cleveland Avenue the same

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night. He stated to us that he went to the home of Nathaniel Young with Georgia Lee Holder and that the statements of the other witnesses was true up to the time he went home; that when he went home that he did not return.

- Q. Well then, he admitted what had taken place with reference to Georgia Lee Holder; is that right?
- A. That's right. And Georgia Lee Holder, we talked with her and she stated that was true.
- Q. He paid \$1 for the room to Nathaniel?
- A. That's right, got Georgia Lee Holder in the room.
- Q. And something was said about him not having any more money and she would not have anything more to do with him?
- A. That's correct.
- Q. And then the argument ensued and Nathaniel told him to get out?
- A. Well, he didn't tell him that he had to get out.

MR. LUPTON: Take the witness.

CROSS-EXAMINATION

BY MR. CRUMPLER:

- Q. Mr. Weatherman, I believe when you found Henry, did he have a gun with him at that time?
- A. No sir, he did not.
- Q. Where did you locate the gun?

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A. In the wardrobe at his home, the home of he and Ruby McGill.

Q. Were there—did he have any shells with him or in—

A. There was two shells turned over that Ruby stated was in the home.

Q. And as far as you can determine, no witnesses stated there was more than one shot fired?

A. One shot was fired.

Q. The examination of the gun showed that if the gun had been fired it had been cleaned; is that correct?

A. That's correct. When I talked to Henry he said, "My gun is clean."

Q. Right. Now, I believe also that Henry told you that at some time during the night that he had ridden in a cab?

A. Yes sir, that is true. We were looking for him in a cab.

Q. It was cab number 2?

A. I don't know.

Q. But in any event, the information was that he had in fact ridden in the cab but it was after the time—

A. That is correct.

Q. Do you know what kind of a shot was in the man's body?

[9]

A. No sir, I do not.

Q. What kind of a shot did the shells have themselves?

A. One of them didn't have any markings on it. It looked like maybe it was marked off, and the other was a number four, long range shell.

Q. They were different—the two shells were different?

A. Yes sir, in my opinion they were. There was no markings on one of them that I could find.

MR. CRUMPLER: No further questions.

A. He stated that he had bought these shells from a man at the store and that he just got them out of a large box where he had twelve guage shells. And the gun, in my opinion, smelled as if it had been recently fired.

THE COURT: All right. Step down.

MR. LUPTON: Your Honor, the State will tender the other witnesses.

THE COURT: Do you care to examine any of these witnesses, Mr. Crumpler?

MR. CRUMPLER: Your Honor, if the Court would allow me I would like to examine Sidney Lackey and possibly one more, and I'll be as brief as I can.

THE COURT: All right.

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SIDNEY LACKEY, being first sworn to state the truth, the whole truth and nothing but the truth, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. CRUMPLER:

Q. Your name is Sidney Lackey?

A. Yes.

Q. I believe you were at the home of Ruby McGill on the afternoon or night some time or another?

A. Yes, I was.

Q. And, Sidney, I'll explain to you why I'm asking you this question. There is some doubt in Henry's mind as to which

statement you made. Did Henry come there and get a gun at any time while you were there?

A. No, sir.

Q. And you don't have any knowledge about his having or his not having a gun?

A. No, sir.

Q. And the fact is, you never saw him leave with his gun and never heard him in an argument?

A. No.

Q. And the only knowledge that you have is the knowledge to the statement that he made to you that he had shot a man?

A. That's right.

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Q. What time do you say the statement was made?

A. I'll say between 10:30 and 11:00.

Q. And where was the statement made, in his house or yours?

A. Mine.

Q. Sidney, did Ruby at any time run you away from the house for drinking?

A. Yes, she told me to get out.

Q. I believe there was a dispute over \$3 that she said you owed her for some time?

A. No, sir.

Q. What was the dispute? Why did she ask you to leave?

A. I got into a fight with a fellow who walked in, wanted to know who I was and what I was doing there.

MR. CRUMPLER: No further questions, Your Honor.

MR. LUPTON: Come down.

THE COURT: Which other witness do you want to examine?

MR. CRUMPLER: This girl here, Your Honor.

SHIRLEY WRIGHT, being first sworn to state the truth, the whole truth and nothing but the truth, testified on her oath as follows:

DIRECT EXAMINATION

BY MR. CRUMPLER:

Q. Shirley, what is your full name?

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A. Shirley Wright.

Q. Were you in the house of Ruby McGill during the night or any time during the night?

A. I wasn't there too long.

Q. What other people were there during the time that you were there?

A. I don't know.

Q. Well, was Ruby McGill there?

A. Yes.

Q. Was Sidney Lackey there?

A. I don't know. I didn't see him.

Q. Was William Jackson there?

A. I don't know.

Q. Now, what time of the night was it that—I believe you stated that Henry came there and got a gun?

something like that. It wasn't too late.

A. Yes. I don't know what time it was. I guess about 9:00,

Q. How long was it before you saw Ruby again—I mean Henry—after that time?

A. I didn't see him any more. See, I left.

Q. You left after that?

A. After he came in and got the gun I left.

Q. Well, describe exactly what happened when he came to get the gun.

A. Well, when he come and got the gun I had went to the

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back room and I come out and he had got the gun, you know, and he said, "I'm going to kill that nigger." So—he didn't say who, and I didn't ask him. I just told him no, you know, don't do it, and that's all he said to me.

Q. Did you see him get any shells at that time?

A. No, I didn't.

Q. What kind of gun, did you see?

A. No, I didn't. It was a long one.

MR. CRUMPLER: No further questions.

THE COURT: Well, is there anything else?

MR. CRUMPLER: Your Honor, if you'll give me just a second. Your Honor, the defendant wishes to take the stand.

THE COURT: All right. Let him be sworn.

HENRY C. ALFORD, being first duly sworn to state the truth, the whole truth and nothing but the truth, testified on his oath as follows;

DIRECT EXAMINATION

BY MR. CRUMPLER:

Q. Henry, you have asked to take the stand in order that you

can make whatever statement you want. Go ahead and tell His Honor what you would like to say.

- A. Yes, sir. Well, the night—well, on that night I was walking down to Nathaniel's house and met

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Georgia, and she said she wanted a little drink of whiskey and couldn't find any, and I said that we'll go to a friend's house on 7½, and when he got there the radio was playing, or records somewhere, and we danced, and nobody was arguing in the house, and so—and I talked to Georgia and—I didn't have but \$1 because I bought a half a pint of whiskey, and she wanted me to have more money. I got my check but I didn't have it with me. It was left in my wardrobe when I changed my work clothes. And I went to Claremont—I carried her coat—they got after me for the coat and then—they didn't get the coat. I went up to 7th Street and come back to Greenwood, and I come back down Greenwood and I went home, and I seen the check was in the billfold. I wanted to know—and I came back out and said—Ruby told me to go across the street, and so I collected her \$3, and she had tried to collect it and he wouldn't give it to her, and there was no admission about no gun or shooting over there, and his girl friend he lives with came to the door and said, "The law is around over there at your house," and I said, "What are they over there for?" and she said she didn't know, and I said, "Well, let me go out the back door," and I went out the back door

[15]

and said, "I'm going to cash my check," and I got a cab and went to cash my check, and so when I come back I met Betty. Betty said the law had been to my house and got Ruby and the shotgun, and I said, "What was they doing with the shotgun?" and she said she didn't know, but that they had got Ruby and the shot-

gun. And so I give Betty a dime to call to the police headquarters and ask why Ruby was up there and see how much bond was she under. I thought she was going to jail for whiskey, but they didn't have no bond, and they asked her where is Henry C. Alford at, asked Betty on the phone, and we started up the street and—she said she didn't know—and we went up the street, going up Cleveland, and went to my house, and there wasn't no whiskey in the house but the gun was gone like she said, and so we went back across Cleveland and bought a drink of whiskey to her cousin's house and we came back, and I said, "Well, what are they going to do with her?" first, and I says, "You go down the street," and so I was walking down Cleveland and Betty went down towards the officers' car—she lives down that way about three doors from me—from where I live, and so I walked down there, and the officer came up by himself and he—and he called me—I walked on the

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left-hand side of Cleveland and he said, "Hey fellow, what is your name?" and I told him, and he wanted to know where I was going, and I told him to Ruby McGill's, and I was walking on Cleveland and he drove up behind me and stopped me again and said for me to come here a minute in the car, and at that time he was by himself, and he walked around to the door and I got in the car, and he said, "What is your name?" and I told him, and he said, "Where do you live?" and I told him 1112 East 10½, and by that time I heard one of the officers talking on the two-way radio about Ruby saying I had on a black cap and black coat on the two-way radio, and some more officers come up, and right behind them come some more, and they stopped and—Joe McFadden and another one—that was four officers' cars at one time there, and Joe McFadden come over there and says, "That's Henry Alford," and they arrested me, and I pleaded guilty

on second degree murder because they said there is too much evidence, but I ain't shot no man, but I take the fault for the other man. We never had an argument in our life and I just pleaded guilty because they said if I didn't they would gas me for it, and that is all.

MR. CRUMPLER: Your Honor, it's going to be

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necessary—I have, as best as I could, set these facts out in this affidavit, but I want to ask him a few questions.

Q. Now, you have consulted with me on several occasions before we came to court?

A. Yes, sir.

Q. And that is two or three times for the last two or three terms?

A. Yes, sir.

Q. And during that time you have had the privilege of being—seeing me and also seeing your sister and the other friends that have been around—the right to visit you and help prepare your case?

A. Yes, sir.

Q. And, also, I have advised you, as your attorney, of the various degrees of murder and the difference between second and first degree and your rights of appeal and the Court's power and discretion in each of those cases?

A. Yes, sir.

Q. And including the right of a jury to find you not guilty, and to the right to plead before the Governor of the State of North Carolina?

A. Yes, sir.

Q. And you authorized me to tender a plea of guilty to

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second degree murder before the Court?

A. Yes, sir.

Q. And in doing that, that you have again affirmed your decision on that point?

A. Well, I'm still pleading that you all got me to plead guilty. I plead the other way, circumstantial evidence; that the jury will prosecute me on—on the second. You told me to plead guilty, right. I don't—I'm not guilty but I plead guilty.

THE COURT: Well, he says that you plead guilty to second degree murder.

A. Yes, sir.

BY THE COURT:

Q. Is that your desire now?

A. Yes, sir. I plead guilty on—from the circumstances that he told me.

MR. CRUMPLER: I don't know what to do with the man.

THE COURT: You are court-appointed?

MR. CRUMPLER: Yes, sir. Your Honor, if the Court would allow me I—

THE COURT: I want to ask him some questions myself up here.

BY THE COURT:

Q. You were born down in Rocky Mount on May 18, 1918,

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weren't you?

A. Yes, sir.

Q. June 18, 1918?

A. Yes.

Q. Now, how many times have you served pentitentiary sentences in your life?

A. About three times.

Q. How many people have you been charged with murdering in your life?

A. One accident.

Q. Where was that?

A. In Virginia.

Q. Well, you killed that person? You served a sentence for that?

A. Yes, sir.

Q. How long did you serve for killing that man?

A. Six years.

Q. What was your sentence?

A. Ten.

Q. And you got out in six years?

A. Yes, sir.

Q. Well now, how many times have you been convicted of armed robbery?

A. Nine times. (NOTE: Nine times, or no times)

Q. What else have you been convicted of?

[20]

A. Whiskey and stuff like that.

Q. What did you serve on those?

A. I pulled time for hauling stolen goods in Robeson County.

Q. How much time did you make in that case?

A. Four years altogether.

Q. What else have you been convicted of?

A. I don't know.

Q. Well, you said you served three sentences.

A. Well, one was for forgery. I wrote some checks.

Q. How much time did you serve for forgery?

A. Two years.

Q. Well, you didn't come to Winston-Salem till 1960 did you?

A. No, sir.

Q. And since you came to Winston-Salem you have been convicted of carrying a concealed weapon here?

A. Here?

Q. Yes, on August 19, 1960.

A. Nothing but a pocket knife.

Q. Just a pocket knife?

A. Yes.

Q. Well, you were convicted of assault, charged in two cases of assault with a deadly weapon in 1960 when you came here weren't you?

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A. No, sir. I don't know anything about that.

Q. Well, you were up before Judge Sams on October 2, 1963 for cursing and abusing an officer?

A. Yes sir, I was up for that.

Q. And you were found guilty of it.

A. Yes, I pleaded guilty.

Q. And you were up for disorderly conduct in October; is that right?

A. Yes.

Q. And you were up for assault on some woman in September; is that right?

A. Yes.

Q. And you have been convicted of driving an automobile intoxicated and driving after your license were revoked and violation of the prohibition law all since you came here in 1960?

A. Yes.

THE COURT: All right. Stand down.

MR. CRUMPLER: That is all of the evidence that I have on his behalf, Your Honor.

THE COURT: Well, let the defendant stand up. It is the judgment of the Court that he be confined in the State's Prison for a term of thirty years.

[22]

NORTH CAROLINA)
)
FORSYTH COUNTY)

CERTIFICATION

I, David G. Meddings, Official Court Reporter of the Superior Court for the Twenty-First Judicial District, do hereby certify the foregoing to be a true and complete Transcript of the Proceedings as taken and transcribed by me from my notes in the case of State of North Carolina vs Henry C. Alford, tried at the December 2, 1964 Criminal Session of Forsyth Superior Court.

Witness my hand this the 20th day of April, 1969.

David G. Meddings
Official Court Reporter

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